

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	No. 3:16-CR-11
v.)	
)	
JEREMY PATRICK,)	(PHILLIPS/SHIRLEY)
)	
Defendant.)	

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This case is before the Court on the Defendant's Motion to Continue Plea Deadline [and] Trial Date [Doc. 131], filed on January 10, 2017. The Defendant asks to continue the February 7, 2017 trial of this case because Assistant Federal Defender Benjamin G. Sharp has recently taken this case over from Assistant Federal Defender Paula R. Voss and needs time to prepare for trial. The parties appeared before the undersigned for a hearing on this motion on January 20, 2017. Assistant United States Attorney Frank M. Dale, Jr., appeared on behalf of the Government. Assistant Federal Defender Benjamin G. Sharp represented the Defendant, who was also present.

At the hearing, Mr. Sharp stated that he had recently received this case from Ms. Voss. He said that the Defendant had a verbal agreement with the Government to enter into a guilty plea but that a plea agreement had yet to be reduced to writing. He asked for a short continuance of one month to finalize a plea agreement or, in the event that the Defendant did not

enter into a plea agreement, for him to prepare for trial. The Government did not object to a one-month continuance of the trial and plea deadline. The parties agreed on a new trial date of March 7, 2017, and that all time through the new trial date is fully excludable under the Speedy Trial Act.

The Court finds the Defendant's motion to continue the trial to be well-taken and that the ends of justice served by granting a continuance outweigh the interest of the Defendant and the public in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). The Court observes that the Defendant is charged [Doc. 1], along with five codefendants, with conspiring to distribute fifty grams of methamphetamine (Count One), two counts of distributing methamphetamine (Counts Two and Four), and possession of a firearm in furtherance of a drug trafficking crime (Count Three). The Court finds that Mr. Sharp is new to this case and needs additional time to either finalize a plea agreement or to review discovery, investigate the case, confer with the Defendant, and prepare for trial. The Court finds that these pretrial preparations cannot be completed before the February 7 trial date or in less than one month. Accordingly, without a continuance, defense counsel would not have the reasonable time necessary to prepare for trial despite his use of due diligence. See 18 U.S.C. § 3161(h)(7)(B)(iv).

The Defendant's Motion to Continue Plea Deadline [and] Trial Date [**Doc. 131**] is **GRANTED**, and the trial is reset to **March 7, 2017**. The Court also finds, and the parties agree, that all the time between the filing of the motion on **January 10, 2017**, and the new trial date of **March 7, 2017**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. See 18 U.S.C. § 3161(h)(1)(D) & -(7). With regard to additional scheduling in this case, the deadline for concluding plea negotiations is **February 7, 2017**. This day is also the deadline for the Defendant to provide reciprocal discovery. The Court instructs the parties that all motions *in limine* must be filed no later than **February 20, 2017**. Special requests for jury instructions shall

be submitted to the District Court no later than **February 24, 2017**, and shall be supported by citations to authority pursuant to Local Rule 7.4.

Accordingly, it is **ORDERED**:

(1) The Defendant's Motion to Continue Plea Deadline [and] Trial Date [**Doc. 131**] is **GRANTED**;

(2) The trial of this matter is reset to commence on **March 7, 2017, at 9:00 a.m.**, before the Honorable Thomas W. Phillips, United States District Judge;

(3) All time between the filing of the Defendant's motion on **January 10, 2017**, and the new trial date of **March 7, 2017**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;

(4) The deadline for concluding plea negotiations is **February 7, 2017**. This date is also the deadline for the provision of reciprocal discovery;

(5) Motions *in limine* must be filed no later than **February 20, 2017**; and

(6) Special requests for jury instructions with appropriate citations shall be submitted to the District Court by **February 24, 2017**.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge